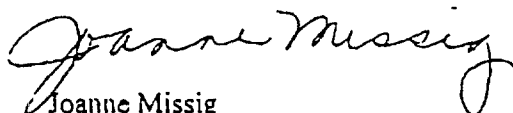


In order complete processing of ICG's long term BFR, Ameritech needs to complete the product development phase of ICG's BFR. Costs for this phase are not expected to exceed an additional \$2,900.00. Completion of the product development phase of ICG's BFR is not expected to take more than 45 days from receipt of ICG's signed authorization to proceed. At completion of the product development phase of ICG's BFR, Ameritech will also provide ICG with both the non-recurring and monthly recurring charges associated with the actual provision of access to spare building cable pairs at the building MDF in Cleveland's Terminal Tower Building.

If you have any further questions or need to check status of your request, please feel free to contact me at (248)443-9900 or by facsimile at (248)483-3738.

Sincerely,



Joanne Missig  
Bona Fide Request Manager

cc: Quentin Patterson

Please sign below to authorize Ameritech to complete the product development phase of ICG's BFR and to indicate ICG's agreement to pay Ameritech's costs (including an appropriate share of Ameritech's joint and common costs) incurred to process ICG's request. By authorizing Ameritech to proceed, ICG is not agreeing to purchase Ameritech's final product offering.

by \_\_\_\_\_

title \_\_\_\_\_

# **Local Loops**

## **Unilateral Attempt to Diminish Negotiated Performances Standards**

**ICG's Comments Protesting Ameritech's Tariff, Ohio PUCO case number 97-1729-TP-ORD**

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED  
98 JAN 30 PM 4:59

In the Matter of the Application :  
of Ameritech Ohio to Revise its : Case Nos. 97-1729-TP-ATA  
Ameritech Tariff, PUCO No. 20, : and 96-1175-TP-ORD  
to Add Minimum Telephone Service :  
Standards Terms and Conditions. :

---

COMMENTS OF ICG TELECOM GROUP, INC.

COMES NOW, ICG Telecom Group, Inc. ("ICG") by its attorneys, pursuant to the Attorney Examiner's Entry dated January 9, 1998, and respectfully submits its comments to the proposed tariff amendment submitted by Ameritech Ohio ("Ameritech") in the above-styled proceedings.

STATEMENT OF THE CASE

By Entry dated September 11, 1997 in Case No. 96-1175-TP-ORD, the Commission directed carriers having Interconnection Agreements to submit, for Commission review and approval, amendments to their Interconnection Agreements addressing relevant aspects of the carrier-to-carrier relationship and the applicability of the MTSS Rules adopted by the Commission. Pursuant to that directive, Ameritech prepared and forwarded to ICG by letter dated December 6, 1997 (Appendix A), a proposed amendment to the Ameritech-ICG Interconnection Agreement.

Pursuant to the invitation set forth in Ameritech's letter of December 6, 1997, ICG forwarded to Ameritech a response dated December 19, 1997, notifying Ameritech that ICG did not regard as acceptable the amendment proposed by Ameritech and offering to

commence negotiating sessions to discuss an amendment to the Interconnection Agreement.

Subsequently, by letter dated January 2, 1998 (Appendix B), Ameritech notified ICG of the instant tariff filings reflecting an intent to implement the MTSS by incorporating into their 251/252 Agreements the terms and conditions contained in Ameritech's tariff that relate to those Rules.

The Commission has invited comments from interested parties on the tariff revisions proposed by Ameritech.

#### COMMENTS OF ICG

ICG and Ameritech entered into an Interconnection Agreement approved by the Commission in Case No. 96-611-TP-UNC. Accordingly, based upon the Commission's Entry on Rehearing in Case No. 96-1175-TP-ORD (MTSS), ICG discussed with Ameritech its willingness to negotiate an amendment to that Interconnection Agreement incorporating any requirements created by the adoption of the MTSS Rules. Rather than pursuing what should have been a relatively simple amendment, however, Ameritech proposed amendments that would substantially alter many substantive provisions of the existing Interconnection Agreement, in a manner bearing no relationship to the Commission's MTSS Rules. Indeed, many of the changes proposed by Ameritech (Appendix A) would have altered current liquidated damages and performance standards of the existing Interconnection Agreement, which address an entirely different set of concerns than the carrier-to-carrier recourse credit provisions of the Commission's MTSS Order. Unable to reach agreement with ICG on its

proposed amendment, Ameritech chose to simply drop any negotiations and pursue a tariff filing which, unquestionably, Ameritech views as an opportunity to manipulate the Commission in such a manner that interconnected carriers are required to accept Ameritech's version of how the agreements should be modified.

In the explanation attached to its Application for Tariff Approval filed December 31, 1997 in Case No. 97-1729-TP-ATA, Ameritech states:

Ameritech Ohio proposes to revise its Ameritech Tariff, PUCO No. 20, to add Minimum Telephone Service Standards Terms and Conditions for telecommunications carrier billing adjustments. These terms and conditions apply to the following:

Out-of-Service Credits	-	Billing adjustments for service interruptions
New Service Waiver	-	Waiver for installation charges for failure to install
Installation Appointment Waiver and Repair Appointment Credit	-	Billing adjustments for missed installation (waiver of installation charges) and repair appointments (adjustment of monthly recurring charges)

Ameritech proposed to create a new section under Part 2 - General Terms and Conditions, Section 10 - MTSS Credits Terms and Conditions. this new section provides the respective rights and obligations of telecommunications carriers and the Company with respect to the application of the minimum telephone service standards (MTSS) as provided by the Public Utilities Commission of Ohio under Case No. 96-1176-TP-ORD. While attempting to draft amendments to current interconnection agreements for MTSS requirements, the Company has received feedback that generally expressed the preference for proposed tariff language to ensure nondiscriminatory treatment among carriers. If the application is approved, parties to Ameritech Ohio's interconnection agreements will be able

to adopt the tariff language or to craft mutually agreeable language as an amendment to the agreements.

As noted by the Commission in its Entry on Rehearing in Case No. 96-1175-TP-ORD, Ameritech maintained throughout the MTSS proceedings, that the carrier-to-carrier relationship should be governed by contract. The Commission concurred in that argument, but concluded the Interconnection Agreements should contain provisions ensuring all end users a minimum level of adequate service "by incorporating the MTSS" into such agreement. The Commission specifically directed that Ameritech and other carriers having Interconnection Agreements submit, for Commission approval, amendments to the Interconnection Agreements which should address all aspects of the carrier-to-carrier relationship vis-a-vis MTSS. The Commission Rules contain no provision allowing Ameritech to substitute a unilateral tariff filing for the agreement amendments mandated.

Compliance with the Commission directives required no more than an amendment to the Interconnection Agreement providing assurance that all end users would be entitled to a minimum level of adequate service, as specified by the Commission in its MTSS Rules, notwithstanding any other provision in the Agreement. Ameritech chose, however, not to pursue any simple solution, but instead proposed an amendment which it described as "related" to MTSS going far beyond that necessary to implement the MTSS Order and protect the end user. A copy of Ameritech's proposal conveyed to ICG by letter dated December 6, 1997, is attached as Appendix C.

While Ameritech maintains the application will not result in any increase in any rate, joint rate, toll, classification, charge or rental; and further avers there is no change in any rule or regulation, those allegations are far from apparent in the language promulgated. Indeed, the tariff language adopts definitions not contained in the Commission's MTSS Rules; and reserves to Ameritech authority to determine unilaterally whether it will comply with the directives established by the Commission in its MTSS Order. That tariff language is sufficiently presumptuous that it appears not only to usurp the rights of other carriers under existing Interconnection Agreements, which in some cases will result in overall rate increases to those carriers, but also usurps the authority of the Commission in many respects. For example, one need only read the provisions of the proposed Section 1.2 which provides:

Telecommunications carriers and the Company acknowledge that, subject to paragraph 1.3 of this section, whether the Company has provided "adequate support" (as set forth in rule 4901:1-5-01(G)(2) of the MTSS) to a telecommunications carrier shall be exclusively determined as provided in this section. If the MTSS are amended by the Commission after the effective date of this tariff, this section will be modified to reflect such amendment to the MTSS.

Apparently, Ameritech sees no problem in having the tariff serve as ICG's "acknowledgement" that Ameritech shall have the exclusive right to determine whether "adequate support" has been provided. In short, Ameritech is going to define the terms set forth in the Commission's Rule, and by its own tariff filing, characterize that as an acknowledgement by other carriers that they are in agreement.

The tariff language proposed is replete with similar examples of Ameritech's attempt to utilize this tariff filing as a means of creating a landscape of barriers for those other carriers with which it does business. For example, in Section 2.3, Ameritech would now have the Commission grant it absolution from liability for any service interruption not caused "solely" by Ameritech's facilities. In other words, if a problem exists which can be attributed 99% to Ameritech, and 1% to some other carrier or entity, then Ameritech is absolved from any responsibility notwithstanding the provisions in any prior Interconnection Agreement it may have negotiated with the other carrier.<sup>1</sup>

#### CONCLUSION

Essentially, Ameritech is utilizing the Commission's tariff filing procedures and the Commission's rather forthright directive in the MTSO proceedings, as a means to further impede and impair the ability of ICG and other competitive carriers to compete in Ameritech's authorized territory. Multiple provisions in the proposed tariff do little more than create additional barriers to competitive service without justification, and without regard to any provisions Ameritech may have agreed to in earlier Interconnection Agreements. Allowing the provisions to become or remain effective would hamper significantly the ability of ICG to achieve operational parity within the Ameritech operating territory.

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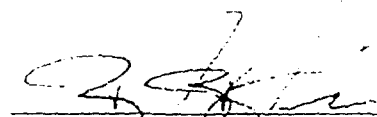
<sup>1</sup> Although not intended to be all-inclusive, ICG has attached as Appendix D a list of comments regarding multiple sections of Ameritech's proposed tariff.



Moreover, it is clear Ameritech intends the proposed tariff provisions to supersede its existing Interconnection Agreements with other carriers, including ICG, and it would be improper for the Commission to allow such action to be taken. Approval of such terms and conditions would only spur each carrier to file its own "general terms and conditions" in its individual tariffs, which would, in essence, promote litigation regarding the applicability of the individual tariff provisions.

For all of these reasons, ICG respectfully submits the proposed tariff should be disallowed in its entirety and Ameritech directed to comply with the Commission's initial Entry; i.e. to the extent such might be required by the Commission's MTSS Rules, amendments to existing Interconnection Agreements should be negotiated and submitted to the Commission for approval.

Respectfully submitted,



Boyd B. Ferris  
MULDOON & FERRIS  
2733 W. Dublin-Granville Road  
Columbus, OH 43235-2798  
(614)889-4777

ATTORNEY FOR ICG  
TELECOM GROUP, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Comments of ICG Telecom Group, Inc. have been forwarded this 30th day of January, 1998 via first class, United States mail, postage prepaid, upon the following parties:

Michael T. Mulcahy  
Ameritech Ohio  
45 Erieview Plaza, Suite 1400  
Cleveland, OH 44114

Daniel R. Conway  
Porter, Wright, Morris & Arthur  
41 South High Street  
Columbus, OH 43215

Marsha Rockey Schermer  
Time Warner Communications  
65 East State Street, Suite 1800  
Columbus, OH 43215

Bruce J. Weston  
Law Office  
169 West Hubbard Avenue  
Columbus, OH 43215-1488

Sally W. Bloomfield  
Bricker & Eckler, LLP  
100 South Third Street  
Columbus, OH 43215-4291


Ken Pfister  
AT&T  
65 E. State Street  
Columbus, OH 43215

Benita Kahn  
Vorys, Sater, Seymour and Pease  
52 E. Gay Street  
P.O. Box 1008  
Columbus, OH 43216-1008

Denise Clayton  
Emens, Kegler, Brown, Hill & Ritter  
Capitol Square, Suite 1800  
65 E. State Street  
Columbus, OH 43215-4294

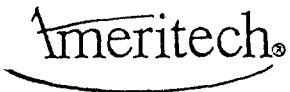
Mike Hazzard  
LCI International  
8180 Greensboro Drive  
McLean, VA 22102

Judith B. Sanders  
Bell, Royer & Sanders Co., LPA  
33 South Grant Street  
Columbus, OH 43215-3927



---

Boyd B. Ferris



December 6, 1997

ICG Access Services, Inc.  
9605 E. Maroon Circle  
Suite 100  
Englewood, CO 80112

Attn: Vice President and General Counsel ✓

ICG Access Services, Inc.  
9605 E. Maroon Circle  
Suite 100  
Englewood, CO 80112

Attn: Government Affairs Department

*Re: Minimum Telephone Service Standards Amendment*

Dear Sir or Madam:

The Public Utilities Commission of Ohio (the "Commission"), by its orders dated June 26, 1997 and September 11, 1997 in Case No. 96-1175-TP-ORD (collectively, the "MTSS Order"), established minimum telephone service standards ("MTSS") for Telecommunications Service providers in the state of Ohio. In its September 11, 1997 Entry on Rehearing, the Commission directed carriers to submit, for Commission approval, amendments to such carriers' Section 251/252 agreements, that address "all relevant aspects of the carrier-to-carrier relationship and the applicability of the MTSS rules."

The Commission directed the carriers to file amendments by October 9, 1997. Ameritech filed on October 8, 1997 its Motion of Extension of Time wherein Ameritech requested that such date be extended until December 31, 1997 to allow the carriers' sufficient time to analyze the MTSS and negotiate amendments to their agreements. The December 31, 1997 date coincides with Rules 4901:1-5-18(H) and 4901:1-5-24(E) of the MTSS that provide that the carrier-to-carrier recourse credit provisions of the MTSS shall apply beginning January 1, 1998.

ICG Access Services, Inc.

December 6, 1997

Page Two

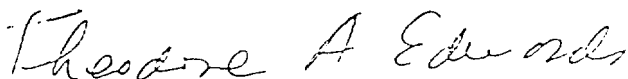
To comply with the Commission's directive, Ameritech has prepared a draft amendment to our companies' agreement to implement the MTSS Order, a copy of which is attached. Please review this draft amendment and provide as soon as possible, but in any event not later than Wednesday, December 17, 1997, any comments on the draft to Ron Lambert. Ron is a member of the team that is available to discuss the proposed amendment with ICG and may be reached at (312) 727-4408 (facsimile: (312) 845-8871). Please note that Ameritech is still reviewing the MTSS and therefore the attached draft is subject to Ameritech's further comment.

Ameritech would like to file a mutually negotiated amendment with the Commission on or before December 31, 1997. However, Ameritech is also preparing for filing with the Commission resale and wholesale tariffs that will include terms and conditions that implement the MTSS Order. It is Ameritech's hope that such tariffs would be effective in the first quarter of 1998. Ameritech would be amenable to incorporate by reference into our companies' agreements the terms and conditions contained in such tariff(s) that relate to MTSS.

Ameritech will maintain records regarding its compliance with the MTSS and shall calculate any recourse credits that may be due only after the terms and conditions that implement the MTSS are in effect.

Please contact Ron at the above number by no later than Friday, December 12, 1997 to indicate whether ICG wishes to negotiate an amendment to our companies' agreement or to adopt on a retroactive basis the terms and conditions contained in Ameritech's effective tariff(s). If ICG wishes to pursue an amendment, please have your representatives identify dates on which ICG is prepared to discuss the draft amendment.

Sincerely,



Theodore A. Edwards  
Vice President - Sales / Local Exchange Carriers

cc: Ronald M. Lambert  
Don DeBruin

Page 4 of 5  
225 West Randolph Street  
Chicago, IL 60606  
Fax 312-845-8511

January 2, 1998

Ameritech.

VIA FACSIMILE: (303) 595-4940

ICG Access Services, Inc.  
9605 E. Maroon Circle  
Suite 100  
Englewood, CO 80112  
Attention: Government Affairs Department

**RE: OHIO MINIMUM TELEPHONE SERVICE STANDARDS**

Dear Sir or Madam:

On December 31, 1997, Ameritech filed a tariff (Case No. 97-1729-TP-ATA) with the Public Utilities Commission of Ohio (the "Commission") to implement the minimum telephone service standards ("MTSS") established by the Commission by its orders dated June 26, 1997 and September 11, 1997 in Case No. 96-1175-TP-ORD.

Pursuant to the Commission's September 11, 1997 order, on December 6, 1997 Ameritech forwarded to each carrier with which it has a 251/252 agreement in the State of Ohio a draft amendment to the parties' 251/252 agreement(s) to implement Rules 4901:1-5-01(G), 4901:1-5-18 and 4901:1-5-24 of the MTSS. The majority of carriers that responded to Ameritech's proposed amendment have accepted Ameritech's offer to implement the MTSS by incorporating into their 251/252 agreement(s) the terms and conditions contained in Ameritech's effective tariff that relates to those Rules. In addition, Ameritech and those carriers have agreed to negotiate the form and substance of an amendment to the agreement(s) to accommodate any other changes relating to the MTSS.

If ICG would like to incorporate by reference into its agreement(s) with Ameritech the terms and conditions of Ameritech's effective tariff, please indicate so by signing below. By signing below, ICG agrees not to submit to Ameritech a claim for recourse credit under the MTSS until applicable tariff terms and conditions are approved by the Commission. ICG acknowledges that Ameritech shall have no obligation to acknowledge or credit any claim for recourse in advance of ICG's submission of a claim in compliance with the terms and conditions of the effective tariff.

Nothing in this letter agreement shall be construed as or is intended to be a concession or admission by either party that any provision in the tariff Ameritech has filed or any existing term or condition in our companies' agreement(s) complies with the rights and duties imposed by the MTSS. ICG reserves its rights to contest and comment on Ameritech's tariff

ICG Access Services, Inc.

January 2, 1998

Page 2

filing and both ICG and Ameritech reserve their respective rights to seek appropriate relief if the Parties are unable to agree upon the form of amendment to their agreement(s).

Please confirm ICG's agreement to the foregoing by executing this letter agreement and returning it to me. Upon receipt, Ameritech will forward to you a revised, draft amendment that accommodates the Parties' agreement to defer to the terms and conditions of the tariff.

If you have any questions, please feel free to call me at (312) 727-4408.

Sincerely,

*Ronald M. Lambert / et*

Ronald M. Lambert

Confirmed and Agreed to as of  
the date first written above

ICG Access Services, Inc.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

25.1 Each Party shall be responsible only for service(s) and facility(ies) which are provided by that Party, its authorized agents, subcontractors, or others retained by such parties, and neither Party shall bear any responsibility for the services and facilities provided by the other Party, its agents, subcontractors, or others retained by such parties.

25.2 Except for indemnity obligations under Section 24.0, each Party's liability to the other Party for any Loss relating to or arising out of any negligent act or omission in its performance of this Agreement, whether in contract or in tort, shall be limited to the total amount that is or would have been charged to the other Party by such negligent or breaching Party for the service(s) or function(s) not performed or improperly performed.

25.3 In no event shall either Party have any liability whatsoever to the other Party for any indirect, special, consequential, incidental or punitive damages, including but not limited to loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted or done hereunder (collectively, "Consequential Damages"), even if the other Party has been advised of the possibility of such damages; provided, that the foregoing shall not limit a Party's obligation under Section 24.1 to indemnify, defend and hold the other Party harmless against any amounts payable to a third party, including any losses, costs, fines, penalties, criminal or civil judgments or settlements, expenses (including attorneys' fees) and Consequential Damages of such third party.

## 26.0 LIQUIDATED DAMAGES FOR SPECIFIED ACTIVITIES

26.1 Certain Definitions. When used in this Section 26.0, the following terms shall have the meanings indicated:

26.1.1 "Specified Performance Breach" means the failure by Ameritech to meet the Performance Criteria for any Specified Activity for a period of three (3) consecutive calendar months.

26.1.2 "Specified Activity" means any of the following activities:

- (i) the installation by Ameritech of unbundled Loops for ICG ("Unbundled Loop Installation");
- (ii) Ameritech's provision of Interim Telecommunications Number Portability ("INP Provisioning"); or
- (iii) the repair of out of service problems for ICG ("Out of Service Repairs").

26.1.3 "Performance Criteria" means, with respect to each calendar month



during the term of this Agreement, the performance by Ameritech during such month of each Specified Activity shown below within the time interval shown in at least eighty percent (80%) of the covered instances:

SPECIFIED ACTIVITY (i) <u>Unbundled Loop Installation</u>	PERFORMANCE INTERVAL DATE
1-10 Loops per Service Order	5 days from Ameritech's Receipt of valid Service Order
11-20 Loops per Service Order	10 days from Ameritech's Receipt of valid Service Order
21 + Loops per Service Order	to be Negotiated
(ii) <u>INP Provisioning</u>	
1-10 Numbers per Service Order	5 days from Ameritech's Receipt of valid Service Order
11-20 Numbers per Service Order	10 days from Ameritech's Receipt of valid Service Order
21 + Numbers per Service Order	to be Negotiated
(iii) <u>Out-of-Service Repairs</u>	Less than 24 hours from Ameritech's Receipt of Notification of Out-of-Service Condition

26.2 Specified Performance Breach. In recognition of the (1) loss of Customer opportunities, revenues and goodwill which ICG might sustain in the event of a Specified Performance Breach; (2) the uncertainty, in the event of such a Specified Performance Breach, of ICG having available to it customer opportunities similar to those opportunities currently available to ICG; and (3) the difficulty of accurately ascertaining the amount of damages ICG would sustain in the event of such a Specified Performance Breach, Ameritech agrees to pay ICG, subject to Section 26.4, damages as set forth in Section 26.3 in the event of the occurrence of a Specified Performance Breach.

26.3 Liquidated Damages. The damages payable by Ameritech to ICG as a result of a Specified Performance Breach shall be \$75,000 for each Specified Performance Breach (collectively, the "Liquidated Damages"). ICG and Ameritech agree and acknowledge that (a)

the Liquidated Damages are not a penalty and have been determined based upon the facts and circumstances of ICG and Ameritech at the time of the negotiation and entering into of this Agreement, with due regard given to the performance expectations of each Party; (b) the Liquidated Damages constitute a reasonable approximation of the damages ICG would sustain if its damages were readily ascertainable; and (c) ICG shall not be required to provide any proof of the Liquidated Damages.

26.4 Limitations. In no event shall Ameritech be liable to pay the Liquidated Damages if Ameritech's failure to meet or exceed any of the Performance Criteria is caused, directly or indirectly, by a Delaying Event. A "Delaying Event" means (a) a failure by ICG to perform any of its obligations set forth in this Agreement (including, without limitation, the Implementation Schedule and the Grooming Plan), (b) any delay, act or failure to act by a Customer, agent or subcontractor of ICG or (c) any Force Majeure Event. If a Delaying Event (i) prevents Ameritech from performing a Specified Activity, then such Specified Activity shall be excluded from the calculation of Ameritech's compliance with the Performance Criteria, or (ii) only suspends Ameritech's ability to timely perform the Specified Activity, the applicable time frame in which Ameritech's compliance with the Performance Criteria is measured shall be extended on an hour-for-hour or day-for-day basis, as applicable, equal to the duration of the Delaying Event.

26.5 Sole Remedy. The Liquidated Damages shall be the sole and exclusive remedy of ICG under this Agreement for Ameritech's breach of the Performance Criteria and a Specified Performance Breach as described in this Section 26.0.

26.6 Records. Ameritech shall maintain complete and accurate records, on a monthly basis, of its performance under this Agreement of each Specified Activity and its compliance with the Performance Criteria. Ameritech shall provide to ICG such records in a self-reporting format on a monthly basis. Notwithstanding Section 28.5.1, the Parties agree that such records shall be deemed "Proprietary Information" under Section 28.5.

## 27.0 REGULATORY APPROVAL

The Parties understand and agree that this Agreement will be filed with the Commission and may thereafter be filed with the FCC. The Parties covenant and agree that this Agreement is satisfactory to them as an agreement under Section 251 of the Act. Each Party covenants and agrees to fully support approval of this Agreement by the Commission or the FCC under Section 252 of the Act without modification. If the Commission or the FCC rejects any portion of this Agreement, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification of the rejected portion; provided that such rejected portion shall not affect the validity of the remainder of this Agreement. The Parties acknowledge that nothing in this Agreement shall limit a Party's ability, independent of such Party's agreement to support and participate in the approval of this Agreement, to assert public policy issues relating

FIRST AMENDMENT TO  
INTERCONNECTION AGREEMENT UNDER SECTIONS 251  
AND 252 OF THE TELECOMMUNICATIONS ACT OF 1996

This First Amendment (the "Amendment") to the Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996, is effective as of the 1st day of January 1998 (the "Amendment Effective Date"), by and between Ameritech Information Industry Services, a division of Ameritech Services, Inc., a Delaware corporation with offices at 350 North Orleans, Third Floor, Chicago, Illinois, 60654 on behalf of Ameritech Ohio ("Ameritech") and ICG Access Services, Inc., a Colorado corporation, with offices at 9605 E. Maroon Circle, Suite 100, Englewood, CO 80112 ("ICG").

WHEREAS, Ameritech and ICG are parties to that certain Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 dated as of June 14, 1996 (the "Agreement").

WHEREAS, the Public Utilities Commission of Ohio (the "Commission"), by its Orders dated June 26, 1997 and September 11, 1997 in Case No. 96-1175-TP-ORD (the "MTSS Order"), established minimum telephone service standards ("MTSS") for Telecommunication Service providers in the state of Ohio; and

WHEREAS, as required by the MTSS Order, ICG and Ameritech have entered into this Amendment to incorporate terms and conditions implementing the MTSS into the Agreement.

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1.0 DEFINITIONS

Unless otherwise defined herein, capitalized terms shall have the meanings assigned to such terms in the Agreement.

2.0 AMENDMENTS TO THE AGREEMENT

On and after the Amendment Effective Date, the Agreement is hereby amended as follows:

2.1 Section 7.2.5 is hereby added to the Agreement and shall read as follows:

"If a Party's operators are providing BLV service to the other Party's Customers, the first Party's operators shall prior to performing the service inform the

requesting Customer (i) what the first Party's charges are for BLV service and (ii) that such Customer's telecommunications provider may have different rates applicable to BLV service and such Customer may contact its provider for such rates."

2.2 Section 17.0 is hereby amended in its entirety to read as follows:

"When a Customer changes its service provider from Ameritech to ICG, or from ICG to Ameritech, and does not retain its original telephone number, the Party formerly providing service to such Customer shall provide a referral announcement ("Referral Announcement") on the abandoned telephone number which provides details on the Customer's new number. Referral Announcements shall be provided reciprocally, free of charge to both the other Party and the Customer, for the period required by the Minimum Telephone Code Service Standards, codified as Rule 4901: 1-5-12 of the Ohio Administrative Code. However, if either Party provides Referral Announcements for a period longer than the above respective periods when its Customers change their telephone numbers, such Party shall provide the same level of service to Customers of the other Party."

2.3 Section 26.0 is hereby amended in its entirety and shall read as follows:

"A Party may be entitled to MTSS Credits pursuant to the terms and conditions of Schedule 26.0."

2.4 A new Schedule 26.0 is hereby added to the Agreement as provided on Attachment A.

### 3.0 MISCELLANEOUS

3.1 The Agreement, as amended hereby, shall remain in full force and effect and each of the Parties hereby ratifies and confirms its respective representations, warranties, covenants and agreements contained in and under the Agreement. Any and all notices, requests, orders, certificates, documents and other instruments executed and delivered concurrently with or after the execution and delivery of this Amendment may refer to the "Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996" or may identify such Agreement in any other respect without making specific reference to this Amendment, but nevertheless all such references shall be deemed to include this Amendment unless the context shall otherwise require.

3.2 This Amendment shall be deemed to be a contract made under and governed by the domestic laws of the State of Ohio, without reference to conflict of law provisions.

3.3 This Amendment may be executed in counterparts, each of which shall be deemed an original but all of which when taken together shall constitute a single agreement.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed as of this \_\_\_\_<sup>th</sup> day of December, 1997.

ICG ACCESS SERVICES, INC.

AMERITECH INFORMATION  
INDUSTRY SERVICES, A DIVISION  
OF AMERITECH SERVICES, INC.,  
ON BEHALF OF AMERITECH  
OHIO

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Attachment A

SCHEDULE 26.0

MINIMUM TELEPHONE SERVICE STANDARDS

1.0 General

- 1.1 The respective rights and obligations of the Parties with respect to the application of the minimum telephone service standards for Telecommunications Services as provided by the Commission (Case No. 96-1175-TP-ORD) ("MTSS") shall be as provided in this Schedule 26.0. The MTSS Credits provided under this Schedule 26.0 shall apply only to those products or services Ameritech provides to ICG under this Agreement that are eligible for an MTSS Credit as provided by the MTSS and this Schedule 26.0. References to Sections and Attachments in this Schedule 26.0 shall be deemed to be references to Sections of, and Attachments to, this Schedule 26.0, unless the context shall otherwise require.
- 1.2 The terms and conditions of this Schedule 26.0 shall be effective commencing on the later of (i) \_\_\_\_\_, 1998 and (ii) such other date ordered by the Commission (the "MTSS Effective Date").
- 1.3 Each Party acknowledges that, subject to Section 1.5, whether Ameritech has provided "adequate support" (as set forth in Rule 4901:1-5-01 (G) (2) of the MTSS) to ICG shall be exclusively determined as provided in this Schedule 26.0. If the MTSS are amended by the Commission after the MTSS Effective Date, the Parties agree to negotiate in good faith an amendment to this Schedule 26.0 to reflect such amendment to the MTSS.
- 1.4 Except as otherwise provided in Section 6.4, if any dispute or controversy should arise with respect to the interpretation or application of any of the provisions set forth in this Schedule 26.0, such dispute or controversy shall be considered a *Dispute* and resolved in accordance with the procedures set forth in Section 28.18 of this Agreement.
- 1.5 Notwithstanding anything to the contrary in this Agreement, in no event shall Ameritech be required to provide ICG an MTSS Credit without a Commission proceeding and a Commission order to furnish such credit to ICG; provided that each Party may waive its right to a Commission proceeding on a case-by-case basis. For purposes of this Agreement, an "MTSS Credit" shall mean

individually and collectively an OOS Credit, New Service Waiver, Installation Appointment Waiver and Repair Appointment Credit.

- 1.6 In addition to the other terms, conditions and restrictions contained in this Schedule 26.0, ICG shall only be entitled to an MTSS Credit if the service or product underlying the request for such MTSS Credit was provided directly to the end-user Customer and such end-user Customer has received the appropriate credit or waiver from ICG in accordance with Rule 4901:1-05-18(A), (B), (C) or (D) of the MTSS.
- 1.7 ICG acknowledges that any Service Order submitted to Ameritech from ICG to order an unbundled Network Element or change its Customer's type of Local Exchange Service or any features thereof shall be subject to all nonrecurring order charges associated with that Service Order (e.g., Service Order-Establish Charge, Line Connection Charge, Non-Electronic Order charge and etc.).
- 1.8 ICG covenants to Ameritech that it will not request an MTSS Credit from Ameritech unless (i) the ICG's Customer is entitled to a credit and receives such credit pursuant to Rule 4901:1-05-18(A), (B), (C) or (D) of the MTSS and (ii) ICG is permitted to make a claim for recourse under Rule 4901:1-5-01(G) of the MTSS, as provided in the MTSS and this Schedule 26.0. Further, with respect to each MTSS Credit Claim submitted to Ameritech by ICG, ICG represents and warrants to Ameritech at the time ICG submits such claim to Ameritech that the information provided to Ameritech under Sections 2.8, 3.6, and 4.5 shall be accurate and complete as of such date. If ICG becomes aware of any inaccuracy in a previously submitted MTSS Credit Claim, ICG shall notify Ameritech of such inaccuracy in accordance with the method described in Section 6.1 within five (5) Business Days of becoming aware of such inaccuracy and identify in such notice any inaccuracy on a per-Claim Reference Number basis.
- 1.9 If Ameritech purchases a product or service from ICG hereunder, and such product or service would be subject to a credit under Rule 4901:1-5-18 (A), (B), (C) or (D) or Rule 4901:1-5-24 of the MTSS, then the terms and conditions of this Schedule 26.0 shall apply mutandis mutandi to the Parties and each Party shall be entitled to and undertake the respective rights and obligations of the other Party (i.e., the provisions of this Schedule 26.0 will apply as if "Ameritech" was replaced with "ICG" and "ICG" was replaced with "Ameritech").

## 2.0 OOS Credits.

- 2.1 General. The terms and conditions of this Section 2.0 shall apply to Ameritech's obligation to reimburse ICG for certain billing adjustments ICG has provided to its Customers for a service interruption as specifically required by Rule 4901:1-5-18(A) and (B) of the MTSS. ICG may only bring a claim for recourse against Ameritech for a service interruption under Rule 4901:1-5-01(G) of the MTSS (an "OOS Credit") based on Ameritech's failure to provide "adequate support" to ICG if the conditions set forth in Sections 2.2 through 2.6, inclusive, 2.8 and 7.1, have been met.
- 2.2 Interruption Defined. A ICG Customer experienced an Interruption with respect to a Local Service. For purposes of this Schedule 26.0, an "Interruption" shall mean that a Customer cannot place outgoing calls or receive incoming calls and such loss of functionality is caused solely by Ameritech's facilities. An Interruption shall not be deemed to have occurred if the transmission quality of an incoming or outgoing call is merely affected. For purposes of this Schedule 26.0, a "Local Service" shall mean, inclusively, those local public Telecommunications Services as defined in Revised Code § 4927.01 (D), but does not include a service that has been exempted from the MTSS.
- 2.3 Cause of Interruption. The Interruption must have been caused solely by Ameritech's facilities and not, inter alia, by (i) a negligent or willful act or omission by the ICG Customer or its agent, (ii) any Customer-owned telephone equipment (including inside wiring), (iii) facilities of the ICG or any third party, in whole or in part, or (iv) a Force Majeure Event.
- 2.4 Denial of Access. The Interruption must not at any time have been extended by Ameritech's inability to gain access to ICG's Customer's premises due to the Customer missing a Repair Appointment.
- 2.5 Trouble Screening. Prior to notifying Ameritech of any Interruption, ICG shall have screened the trouble report in accordance with the applicable provisions of Attachment A to this Schedule 26.0.
- 2.6 Notice of Interruption.
- 2.6.1 After receipt of notice of an Interruption from its Customer and completion of the screening requirements required by Section 2.5, ICG shall notify Ameritech of such Interruption through either (i) if established, the electronic interface for the transfer and receipt of data necessary for the repair and maintenance functions (the "Maintenance



Interface”) or (ii) telephonic notice to Ameritech’s repair bureau(s) at the telephone number(s) provided by Ameritech to ICG.

2.6.2 In its notice to Ameritech, ICG must complete all required fields if the Interruption is reported to Ameritech via the Maintenance Interface or, if via telephone, provide all requisite information requested by Ameritech’s repair bureau and, in each case, shall specifically identify the specific circuit identification of each Interrupted facility.

2.6.3 Upon receipt of notice of an Interruption, Ameritech may, based on testing conducted at the time it receives such notice, re-classify such occurrence as Service-Affecting instead of an Interruption. For purposes of this Schedule 26.0, “Service-Affecting” shall mean any condition other than an Interruption.

2.6.4 Only the initial report of an Interruption, and not subsequent reports, is eligible for an OOS Credit.

2.7 Calculation of Interruption. For purposes of calculating any OOS Credit owed by Ameritech to ICG, the time at which an Interruption shall be deemed to have commenced shall be the time at which Ameritech first receives (i) a complete and accurate notice from ICG through the Maintenance Interface or telephonic notice of such Interruption or (ii) notice through its internal systems of such Interruption. An Interruption shall be measured on a continuous basis (including Saturdays, Sundays and holidays) from the time Ameritech is deemed to have first received notice until the time specified on Ameritech’s records that such Interruption has been cleared (such time period referred to as the “Interruption Interval”).

2.8 Requests for OOS Credit. In order to be eligible for an OOS Credit, ICG shall provide to Ameritech a complete, accurate and typewritten “MTSS Credit Claim” (and any documents or records required to be attached thereto) as provided in Section 6.1 and within the time frame set forth in Section 7.1.

2.9 Amount of OOS Credit.

2.9.1 If (i) Sections 2.2 through 2.6 have been satisfied, (ii) ICG has given its Customer a credit pursuant to Rule 4901:1-5-18(A) and (B) of the MTSS and (iii) ICG has provided to Ameritech the records required by Section 2.8, then Ameritech shall, subject to Sections 1.6 and 2.9.2, credit ICG an amount equal to the lesser of (x) the actual amount that ICG has credited such Customer (whether in the form of a credit on such Customer’s bill or in the form of direct payment) and (y):